

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**B. P. J., by her next friend and mother,
HEATHER JACKSON,**

Plaintiff,

v.

**CIVIL ACTION NO. 2:21-cv-00316
Judge Joseph R. Goodwin**

**WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY
BOARD OF EDUCATION, WEST
VIRGINIA SECONDARY SCHOOL
ACTIVITIES COMMISSION,
W. CLAYTON BURCH, in his official
Capacity as State Superintendent, DORA
STUTLER, in her official capacity as
Harrison County Superintendent, and
THE STATE OF WEST VIRGINIA,**

Defendants.

and LAINEY ARMISTEAD,

Intervenor Defendant.

**DEFENDANT STATE OF WEST VIRGINIA’S MOTION IN LIMINE TO BAR
EVIDENCE OF DISORDERS OF SEXUAL DEVELOPMENT (RELEVANCE)**

Defendant, State of West Virginia (the “State”), pursuant to Rules 401 and 403 of the Federal Rules of Evidence (“Fed. R. Evid.”), moves for an order *in limine* to preclude Plaintiff, B.P.J., from discussing in any opening statement, or otherwise, or presenting evidence regarding Disorders of Sexual Development because of lack of relevance. Based upon the Expert Report of Dr. Joshua D. Safer, among other things, the State expects Plaintiff to discuss Disorders of Sexual Development. However, evidence regarding Disorders of Sexual Development is not relevant to the case because Plaintiff does not suffer from Disorders of Sexual Development and there is no

legal authority in West Virginia addressing sports participation based on an athlete's Disorder of Sexual Development or lack thereof.

Therefore, the State respectfully requests that its Motion *in Limine* be granted.

Respectfully submitted,

PATRICK MORRISEY
West Virginia Attorney General

/s/ Curtis R. A. Capehart
Douglas P. Buffington II (WV Bar # 8157)
Chief Deputy Attorney General
Curtis R.A. Capehart (WV Bar # 9876)
Deputy Attorney General
David C. Tryon (WV Bar #14145)
Deputy Solicitor General
OFFICE OF THE WEST VIRGINIA ATTORNEY
GENERAL
State Capitol Complex
1900 Kanawha Blvd. E, Building 1, Room E-26
Charleston, WV 25305-0220
Telephone: (304) 558-2021
Facsimile: (304) 558-0140
Email: Curtis.R.A.Capehart@wvago.gov

Counsel for Defendant, STATE OF WEST VIRGINIA

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CERTIFICATE OF SERVICE

I hereby certify that, on this 22nd day of June 2022, I electronically filed the foregoing Motion with the Clerk of Court and all parties using the CM/ECF System.

/s/ Curtis R. A. Capehart
Curtis R. A. Capehart